

COMPENSATION AND ESCROW AGREEMENT

This Escrow Agreement (Agreement) is entered into as of August 20, 2012, by and between the United States Environmental Protection Agency, Region 8 (EPA), First Montana Bank (Bank) and the estate of Edwin A. Pluger (Plugur Estate), hereinafter referred to collectively as the "Parties".

WHEREAS, the response action at the Libby Asbestos Site (Site), Lincoln County, Montana implemented by EPA is authorized by Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300;

WHEREAS, the Plugur Estate is the owner of the land and improvements known as 223 Plugur Way, Troy, MT 59935 (the Property) located within the Site. The Plugur Estate maintained a residence on the Property, which contains exposed vermiculite;

WHEREAS, on August 18, 2001, EPA issued an Amendment to an Action Memorandum which was originally issued on May 23, 2000 in which EPA documented the determination that cleanup was necessary at properties such as the Plugur Estate residence because of asbestos contamination. The selected response action to be implemented at the Property will result in the demolition of the residence;

WHEREAS, the Plugur Estate certifies that the Property was acquired with no knowledge of the asbestos contamination. The Plugur Estate has granted to EPA, its employees, agents, contractors and representatives access to the Property for the purpose of implementing the selected response action, including the demolition of the residence;

WHEREAS, the Plugur Estate has no outstanding loans on the improvement;

WHEREAS, on May 5, 2010 Lyn R. Williams was appointed the guardian and conservator of Edwin A. Plugur;

WHEREAS, the residence on the Property has been appraised by Brad Kelsch of Howell and Associates, and the fair market value of the improvements was determined to be a total of \$40,000. A garage, a well and a septic system which are not being replaced, are valued at \$20,000. An evaluation of the replacement cost of the home using a modular unit company of the Plugur Estate's choosing, (including slab on grade, utility connections and general contractor costs) is approximately \$77,620.00.

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements set forth below, the parties agree as follows:

Section 1. Definitions

As used in this Agreement:

- (a) The term "EPA" shall mean the United States Environmental Protection Agency, Region 8.
- (b) The term "Bank" shall mean the First Montana Bank of Libby, Montana.
- (c) The term "Funds" shall mean those monetary funds placed by EPA into an escrow account at First Montana Bank for the purposes established in this Agreement.
- (d) The term "Escrow Manager" shall mean the Bank official charged with implementing the disbursement of Funds pursuant to this Agreement.
- (e) The term "Allowable Expense" shall mean those expenses related to the replacement of the residence at the Property with a modular home, including an allocation of \$69,620.00 for the modular residential unit, \$4,000.00 for a slab on grade, \$1,800 for utility connections and \$2,200.00 for general contractor costs.
- (f) The term "Escrow Account" shall mean the account set up, maintained and disbursed by the Bank for the purposes established herein.
- (g) The term "Property" shall mean the residence and surrounding land owned by the Pluger Estate at 223 Pluger Way, Troy, Montana, 59935.
Legal is: 6692* S26, T32 N, R34 W, LOTS 3 & 4 IN SESW PLAT 275 106.04 ACRES

Section 2. Establishment of Escrow Account

EPA shall transfer to the Bank SEVENTY SEVEN THOUSAND SIX HUNDRED TWENTY DOLLARS (\$77,620) within thirty (30) days of execution of this Agreement by EPA. This money shall constitute the Funds and shall be placed by the Bank into a non-interest bearing account which shall become the Escrow Account. EPA shall pay the Bank 1% of Funds that are distributed for replacement of the Pluger Estate residence for the performance of its duties under this Agreement.

Section 3. Disbursement of the Funds

The Escrow Manager shall disburse the Funds in response to bi-weekly draws presented by the general contractor of the Pluger Estate. Each draw shall include a signed certification that all the bills included therein are for expenses related to the replacement of the residence. The general contractor shall be a licensed independent contractor. All work performed shall be pursuant to valid city permits, where such permits are required. The Escrow Manager shall perform inspections of all the work.

Section 4. Termination of the Escrow Account

The Escrow Manager shall continue the disbursements until the Funds are exhausted or until one year after EPA notifies the Pluger Estate that the property is available for the construction of a new home, whichever occurs earlier. If any portion of the Funds is left in the Escrow Account after December 31, 2013, those Funds shall be returned to EPA and the Escrow Account shall be terminated. Exhaustion of the Funds on or before December 31, 2013 shall also constitute a termination of the Escrow Account. If EPA, the Escrow Manager, or the Bank determines that the Funds have been applied for or used for activities other than replacement of the residence on the Property, EPA may instruct the Bank and/or Escrow Manager to immediately terminate the Escrow Account. In such case, no further restoration funds will be provided and all claims against EPA will be considered released pursuant to Section 11.

Section 5. Express Powers of the Escrow Manager and the Bank

Without in any way limiting the powers and discretions conferred upon the Escrow Manager and the Bank by the other provisions of this Agreement or by law, the Escrow Manager and the Bank are expressly authorized and empowered:

- (a) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to implement the powers herein granted; and
- (b) To make all distributions and payments as described herein.

Section 6. Monthly Valuation

The Escrow Manager shall furnish to the EPA a statement confirming the value of the Escrow Account on at least a monthly basis.

Section 7. Instructions to the Escrow Manager and Bank

All orders, requests and instructions by EPA to the Escrow Manager and/or Bank shall be in writing. The Escrow Manager and the Bank shall be fully protected in acting without inquiry in accordance with EPA's orders, requests and instructions. The Escrow Manager and the Bank shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of EPA hereunder has occurred.

Section 8. Notice

All notices under this Agreement will be sent by overnight delivery service or certified or registered mail to the address of the applicable party set forth below:

If to EPA:

Mr. Mike Cirian
U.S. Environmental Protection Agency, Libby Information Center
108 East 9th Street
Libby, MT 59923

If to the Bank or Escrow Manager:

Nancy Lee
First Montana Bank
P. O. Box 1550
Libby, Montana 59923

If to the Pluger Estate:

Ms. Lyn R. Williams
2635 West Sunnyview Circle
Appleton, WI 54914

Section 9. Amendment of Agreement

This Agreement may be amended by an instrument in writing executed by the Parties.

Section 10. Immunity

The Escrow Manager shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of the Escrow Account, or in implementing any orders, requests or instructions by EPA issued in accordance with this Agreement.

Section 11. Release of Claims

The Pluger Estate hereby agrees that the payments made pursuant to this Agreement shall constitute full settlement and just compensation, under all applicable laws and regulations, of any and all claims they may have against the EPA for actual replacement and compensation for the

value of all buildings and personal items demolished or diminished by, or disposed of pursuant to implementation of the selected response action. The Pluger Estate assumes full responsibility for the restoration activities. EPA shall not be deemed to be a party to any contract for the restoration. The Pluger Estate agrees to hold EPA harmless for any liability associated with such restoration, including, but not limited to, claims resulting from accidents or from defective construction.

Section 12. Reservation of Rights

Nothing in this Agreement shall preclude the Pluger Estate from pursuing any legal remedy that it may otherwise have against any other entity to recover damages and seek compensation not covered by or included in this Agreement. Nothing in this Agreement shall preclude EPA from pursuing any legal remedy that it may otherwise have against any potentially responsible party in order to recover costs EPA incurs for response actions at the Site.

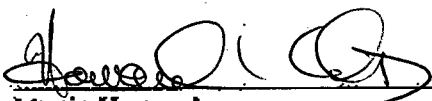
Section 13. Choice of Law

This Agreement shall be administered, construed and enforced according to the laws of the State of Montana and of the United States of America.

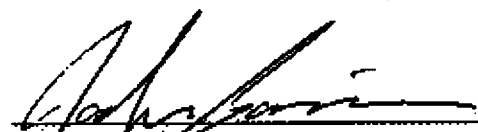
IN WITNESS WHEREOF the Parties have caused this Agreement to be executed, where appropriate, by their duly authorized respective officers or employees.


Lyn R. Williams,
Conservator and Guardian for Edwin A. Pluger

8-28-2012
Date


Martin Hestmark,
Assistant Regional Administrator
United States Environmental Protection Agency

9/5/12
Date


Jackson Garrison,
First Montana Bank

8-31-2012
Date



United States
Environmental Protection Agency
Washington, DC 20460

MISCELLANEOUS OBLIGATION DOCUMENT

1. OBLIGATION(S) FOR THE MONTH/PERIOD OF September, 2012

2. Purpose

To establish an escrow account for the replacement of a home that will be demolished as part of the Libby Asbestos Superfund Site cleanup. The total amount to be placed in the escrow account is \$78,396.20 (\$77,620 for replacement structure and \$776.20 for escrow fee).

The escrow account will be established at First Montana Bank, P.O. Box 1550, Libby, Montana 59923.

Routing # 092102851

Account # 102275236 - checking Account

Bank Phone # 406-293-0280

3.

- ☒ AN ORIGINAL OBLIGATION
☐ AN INCREASE TO A PREVIOUS OBLIGATION
☐ A DECREASE TO A PREVIOUS OBLIGATION
☐ CANCELLATION OF A PREVIOUS OBLIGATION

4. Financial and Accounting Data

Line	DCN (Max 7)	Budget/FYs (Max 4)	Appropriation Code (Max 6)	Budget Org/Code (Max 7)	Program Results Code (Max 9)	Object Class (Max 4)	SFO (Max 2)
1	LSP0911	11	TR2B	08LRABC	303DD2	4215	
2							
3							

	Amount (Dollars)	(Cents)	Site/Project (Max 8)	Cost Org/Code (Max 7)
1	78,396	20	08BCRV00	C001
2				
3				

5. Certification

Certification of Funds Availability (Funds Certifying Official)

[Signature]
Signature

8/23/12 303-312-6697
Date Phone

Prepared By:

[Signature]
Signature
Date: 8-20-12
Phone: (303) 312-6578

Approved By:

[Signature]
Signature
Date: 8/22/12
Phone: 303 312 6693



Document Review

Compass Document: RQ 1208LSP091

08/23/12

Document Summary:

Doc Type: RQ

Doc No: 1208LSP091

External Doc No:

Commitment Date: 08/23/12

Closed Date:

Servicing Finance Office: 08

Original Amount: \$78,396.20

Available Amount: \$78,396.20

Description:

Extended Description:

Document Details:

Expand

Line#	Line Amt	Obligated Amt	Available Amt	BFY	Fund	Org	Program	Project ¹	FOC	CostOrg	Comments
1	\$78,396.20	\$0.00	\$78,396.20	2011	TR2B	08LRABC	303DD2	08BCRV00	4215	C001	MOD ESCROW ACCOUNT FOR RESIDENCE REPLACEM

Document Activity:

[Warehouse Homepage](#)[EPA@Work Home](#) | [EPA Internet](#)http://V1742TRTAY003.aa.ad.epa.gov/neis/ifms_web.finance_result

This web page was last updated on 08/12/2012.

For issues, please contact: [EPA Call Center](#) - (866) 411-4372
